

Message Text

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TO AMEMBASSY ISLAMABAD PRIORITY

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E.O. 11652: N/A

TAGS:PGOV, EAIR, PK

SUBJECT: AGREEMENT TO EXCHANGE JUDICIAL INFORMATION

REF: NEA/PAB LETTER FROM MULLIGAN TO HILALY, PAKISTAN
EM0ASSY, JULY 15, 1977

1. PAKISTAN AMBASSADOR AND EMBASSY OFFICERS HAVE TOLD DEPT THAT GOP IS READY TO NEGOTIATE AN AGREEMENT FOR AN EXCHANGE OF JUDICIAL INFORMATION WITH RESPECT TO AN INVESTIGATION OF BOEING AIRCRAFT SALES TO PIA. FIRST, HOWEVER, THE EMBASSY REQUIRED ANSWERS TO SEVERAL QUESTIONS: 1) COULD DEPT CONFIRM THAT THE USG DID HAVE INFORMATION WHICH IT COULD SHARE WITH THE GOP? 2) COULD SUCH INFORMATION, IF AVAILABLE, BE PROVIDED UNDER SAFEGUARDS BEFORE AN AGREEMENT WAS CONCLUDED? 3) ALTHOUGH EMBASSY WAS AWARE OF PARA TWO IN ABOVE LETTER, COULD AMBASSADO0 YAQUB-KHAN NEGOTIATE AND SIGN THE AGREEMENT, IN THE INTEREST OF SPEEDING UP THE PRO-
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CESS? 4) IS TEN DAYS NOTICE ESSENTIAL ,EFORE NEGOTIATIONS COULD BEGIN?

2. WE HAVE TOLD THE EMBASSY THAT THE USG DOES HAVE INFORMATION IT COULD SHARE WITH THE GOP, BUT THAT IT COULD NOT BE MADE AVAILABLE PRIOR TO THE CONCLUSION OF AN AGREEMENT. WE ALSO INFORMED THE EMBASSY THAT THE DEPT OF JUSTICE IS ONLY

AUTHORIZED TO CONCLUDE SUCH AN AGREEMENT WITH THE LAW ENFORCEMENT AGENCY WHICH IS DIRECTLY RESPONSIBLE FOR INVESTIGATION OF THE CASE AND ANY PROSECUTION DERIVING THEREFROM I.E., MUST HAVE AUTHORITY TO PROSECUTE AS WELL AS INVESTIGATE.

3. SINCE TELEPHONE CALL FROM AGHA SHAHI WHICH AMBASSADOR YAQUB-KHAN RECEIVED ON AUGUST 21, DCM MEHDI HAS PRESSED DEPARTMENT TO EXPEDITE NEGOTIATION OF AGREEMENT AND EXCHANGE OF INFORMATION. DOJ NEGOTIATORS HAVE NOW GIVEN SEPTEMBER 8 AND 9 (VICE 12-15 AS INDICATED TO US INITIALLY) AS THE EARLIEST POSSIBLE DATES AVAILABLE FOR SCHEDULING MEETINGS. THIS SHOULD BE ADEQUATE TIME TO NEGOTIATE AND SIGN AGREEMENT UNLESS SPECIAL PROBLEMS ARISE. INFORMATION GOP IS SEEKING CANNOT HOWEVER, BE MADE AVAILABLE IMMEDIATELY UPON SIGNING AGREEMENT, SINCE JUSTICE IS UNDER COURT ORDER TO PROVIDE BOEING TEN DAY NOTICE THAT INFORMATION ACQUIRED IN THE COURSE OF USG INVESTIGATION WILL BE PROVIDED TO A THIRD PARTY. IF AGREEMENT IS CONCLUDED ON SEPTEMBER 9, BOEING WOULD HAVE TEN DAYS FROM RECEIPT OF NOTIFICATION THAT DOJ INTENDED TO MAKE INFORMATION AVAILABLE TO GOP IN WHICH TO FILE AN OBJECTION IN COURT.

4. WE ARE INFORMING PAKISTAN EMBASSY THAT DOJ HAS MADE SPECIAL EFFORT TO ACCOMMODATE THEM IN AGREEING TO ABOVE LIMITED OFFICIAL USE

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DATES BUT THAT IT CANNOT GIVE NOTICE TO BOEING PRIOR TO SIGNING AGREEMENT.

5. IF SUBJECT IS RAISED WITH EMBASSY IN ISLAMABAD, YOU SHOULD REITERATE THAT THE DEPARTMENT OF JUSTICE ASKS THAT THE GOP NEGOTIATORS BE KNOWLEDGEABLE AND AUTHORITATIVE REPRESENTATIVES OF APPROPRIATE PAKISTANI LAW ENFORCEMENT AGENCY, WHICH IS DIRECTLY RESPONSIBLE FOR INVESTIGATION OF THE CASE AS WELL AS ANY PROSECUTION ARISING THEREFROM. THIS IS NECESSARY TO PROVIDE BOTH PARTIES WITH A THOROUGH UNDERSTANDING OF HOW THE INVESTIGATIVE PROCESS AND JUDICIAL SYSTEM OF THE OTHER COUNTRY ACTUALLY OPERATES, TO WHOM THE INFORMATION EXCHANGED WILL BE DISTRIBUTED, HOW THE PROSECUTION WOULD PROCEED (IF UNDERTAKEN), ETC.

6. THE PRIMARY ELEMENTS OF THE JUDICIAL ASSISTANCE AGREEMENTS ARE CONFIDENTIALITY AND RECIPROCITY, AND THE DEPARTMENT OF JUSTICE WISHES TO BE ADVISED AS TO HOW THE COMMITMENTS UNDERTAKEN IN A PARTICULAR AGREEMENT WILL BE FULFILLED WITHIN THE CONTEXT OF PAKISTANI LAW ENFORCEMENT PROCEDURES. THE DEPARTMENT OF JUSTICE WOULD ALSO WISH TO EXPLAIN LIMITATIONS ON THE PROVISION OF INFORMA-

TION UNDER U.S. LAW. CHRISTOPHER

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